

Notice of Allowability

Application No.

09/700,840

Examiner

Walter B Aughenbaugh

Applicant(s)

BERGHOLTZ ET AL

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed July 26, 2004.
2. ☒ The allowed claim(s) is/are 17-31.
3. ☒ The drawings filed on 08 January 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 26, 2004 has been entered.
2. Applicant's cancellation of claims 1-3 and 5-16 in the Amendment filed July 26, 2004 has been acknowledged by Examiner. N.B. claim 4 was cancelled in Paper 13.
3. New claims 17-31 presented in the Amendment filed July 26, 2004 have been received and considered by Examiner.
4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
5. The application has been amended as follows:
Insert the claim status identifier --(New)-- after each claim number of claims 17-31.

Allowable Subject Matter

6. Claims 17-31 are allowed.

Reasons for Allowance

7. The following is an examiner's statement of reasons for allowance:

The prior art of record fails to teach or suggest a packaging material or package that comprises a plastic layer that comprises the combination of light-reflecting material

Art Unit: 1772

such as light-reflecting mineral particles in an amount of about 3 to about 80 weight percent with light-absorbing material such as carbon black in such a small amount as the amount claimed by Applicant of about 0.04 to about 1 weight percent. New claims 17-31 overcome the rejections based on the prior art of record because Akao et al. do not teach or suggest the combination of the light-reflecting material and light-absorbing material in the claimed amounts in a plastic layer (Akao et al. do not teach or suggest an amount range of carbon black with an upper limit of a value as low as the claimed upper limit of about 1 percent), Akao et al. do not teach or suggest a packaging material or package that consists of three plastic layers where the plastic of the three layers is the same plastic (as is claimed in independent claims 17 and 22) and do not teach or suggest a packaging material consisting of a plurality of plastic layers where all of the plastic layers are made of the same plastic as claimed in independent claim 27. Akao et al. require that at least two of the layers in the multilayer construction comprise different plastics since Akao et al. teach that the heat resistance and melting points of the respective plastics of two of the layers (layers 3a and 4, see col. 44, lines 48-55) must be significantly different (col. 6, lines 29-34 and col. 44, lines 48-55).

8. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter B. Aughenbaugh whose telephone number is 571-

Art Unit: 1772

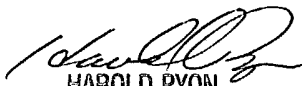
272-1488. The examiner can normally be reached on Monday-Thursday from 9:00am to 6:00pm and on alternate Fridays from 9:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Walter B. Aughenbaugh
11/08/04

WBA


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

11/8/04